



VILLAGE OF ARROW POINT, MISSOURI

**From The Office Of State Auditor
Claire McCaskill**

**Report No. 2001-109
October 25, 2001
www.auditor.state.mo.us**

AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

October 2001

The following problems were discovered as a result of an audit conducted by our office of the Village of Arrow Point, Missouri.

The village has not clearly established any of its assessments as a tax or a user fee. The village has not established a statement of costs to adequately set rates for providing water and trash services to the village customers and revenues generated by the maintenance fee far exceed the village's annual expenses. The village also assesses a building permit fee for all new construction although the village does not have a building inspector or any other related costs. The village should request that its attorney review these fees to determine whether they are or can be structured as user fees, or whether they should be put to a public vote.

The village does not separately account for the activities related to its various assessments. All financial activity is accounted for in one fund. A General Fund should be used to account for the general activities and other operations should be accounted for separately to ensure that charges do not exceed the costs of providing the service. In addition, late fees charged by the village appear to be excessive and should be reviewed for reasonableness.

In 1995, the Village of Arrow Point brought suit against former board chairman Bill Crouch for conflicts of interest noted in a prior audit. A counter suit was filed by Mr. Crouch requesting \$4,245 along with interest and legal fees. In 1998, a different board than the one that brought the suit dismissed it and made a \$10,000 payment to Mr. Crouch. The board did not obtain any written legal opinion to support their actions nor did they document their reasons for dismissing the suit. The payment represents a significant village expenditure considering total receipts for the village in that year were approximately \$11,400.

The village did not prepare a budget until 2001. The 2001 budget was not properly prepared and formally approved as required by state law. Closed meetings were apparently not always conducted in accordance with state law and board minutes have not always been adequately maintained.

Accounting duties are not adequately segregated, as only one official handles the accounting records.

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YELLOW SHEET

VILLAGE OF ARROW POINT, MISSOURI

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STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

To the Honorable Chairman
and
Board of Trustees
Village of Arrow Point
Golden, Missouri 65658

The State Auditor was petitioned under Section 29.230, RSMo, to audit the village of Arrow Point, Missouri. Our audit of the village included, but was not limited to, the year ended December 31, 2000. The objectives of this audit were to:

1. Perform procedures we deemed necessary to evaluate the petitioners' concerns.
2. Review compliance with certain constitutional provisions, statutes, ordinances, and attorney general's opinions as we deemed necessary or appropriate in the circumstances.
3. Review certain management practices which we believe could be improved.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances. In this regard we reviewed board minutes, village policies and ordinances, and various village financial records.

Our audit was limited to the specific matters described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention which would have been included in this report.

The accompanying History and Organization is presented for informational purposes. This information was obtained from the village and was not subjected to the auditing procedures applied in the audit of the village.

The accompanying Management Advisory Report presents our findings and recommendations arising from our audit of the village of Arrow Point, Missouri.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

July 26, 2001 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Thomas J. Kremer, CPA
Audit Manager:	David Holtmann, CPA
Audit Staff:	Ted Fugitt, CPA

HISTORY AND ORGANIZATION

VILLAGE OF ARROW POINT, MISSOURI HISTORY AND ORGANIZATION

The Village of Arrow Point was incorporated in 1987 and is located in Barry County. The village has 214 lot owners and 70 water customers.

The village government consists of a five member board of trustees. The trustees are elected for two-year terms. They serve without compensation. The elected officials at December 31, 2000, were:

<u>Elected Officials</u>	<u>Term Expiration</u>
Rose Nolan, Chairman	April 2001 (1)
Jolene Krutz, Secretary	April 2002
Jeane Trostle-White, Treasurer	April 2001 (2)
William Kane, Trustee	April 2002 (3)
Greg Winder, Trustee	April 2002

- (1) Doris Williams was elected in April 2001; however, she never took office. This position remained vacant as of July 2001.
- (2) Re-elected in April 2001 election.
- (3) Resigned in May 2001. Lynn Harris was appointed to the board in June 2001 to fill the remainder of this term.

All trustees are insured against "public officials errors and omissions" in the amount of \$300,000 for each wrongful act with an aggregate limit of \$300,000, subject to a \$500 deductible. The treasurer, chairman, and one other trustee are bonded for \$5,000.

The village's assessed valuation has not been determined because a property tax is not levied. Instead, the village bills each lot owner and each water customer the assessments noted below:

<u>Assessment (lot owner)</u>	<u>Purpose</u>	<u>Annual Charge</u>
Maintenance	General upkeep	\$20 for first lot plus \$10 for each additional big lot owned by the same person and \$3 for each additional small lot owned by the same person
<u>Assessment (water customers)</u>	<u>Purpose</u>	<u>Annual Charge</u>
Water	Operating expenses of the water system	\$60 per hookup
Trash	Expenses of the village dumpster	\$20

The village assesses a \$150 fee for initial hookup to the water system.

The village assesses late charges on water and maintenance fees. Water and maintenance fees are billed in January and considered delinquent on April 1st. A \$10 late charge is then added each month until the account is paid. The late charge applies separately to water and maintenance accounts.

The village assesses a building permit fee for all new construction in the village. According to village ordinance, the charge is 1% of the estimated cost of construction, with a minimum charge of \$10.

A summary of the financial activity of the village of Arrow Point for the three years ended December 31,2000, is presented on the following page.

	Year Ended December 31,		
RECEIPTS	2000	1999	1998
Water income	4,764	4,887	4,100
Maintenance income	7,646	5,148	4,625
Motor fuel and motor vehicle fees	2,093	2,069	2,028
Dumpster income	75	0	0
Miscellaneous income	532	170	251
Interest	623	406	427
Total Receipts	15,733	12,680	11,431
DISBURSEMENTS			
Well expense	1,443	1,163	1,207
Dumpster expense/trash hauling	2,040	1,616	1,500
Electric	1,215	926	1,344
Phone expense	471	52	53
Insurance	427	862	1,280
Election costs	143	627	170
Office	401	564	274
Attorney fees	250	0	0
Dues	275	0	0
Mowing	700	700	765
Court costs	232	0	0
Payment to former board chairman	0	0	10,000
Other	341	85	589
Total disbursements	7,938	6,595	17,182
RECEIPTS OVER (UNDER)			
DISBURSEMENTS	7,795	6,085	(5,751)
CASH AND CASH EQUIVALENTS, JANUARY 1,	22,826	16,741	22,492
CASH AND CASH EQUIVALENTS, DECEMBER 31,	30,621	22,826	16,741

MANAGEMENT ADVISORY REPORT

VILLAGE OF ARROW POINT, MISSOURI
SUMMARY OF FINDINGS

1. Village Assessments (pages 10-11)

The fees charged to residents for water, trash, building permits and maintenance were established without a public vote. Some of the fees generate revenues in excess of related expenditures. The village does not account for the various fees separately from the general activities of the village. Late fees charged by the village appear excessive.

2. Payment to Former Chairman (page 12)

In 1998, the village made a \$10,000 payment to the former board chairman that appears questionable.

3. Budgets, Meetings and Minutes (pages 12-14)

The village did not prepare a budget until 2001. The 2001 budget was not properly prepared and formally approved as required by state law. Closed meetings were not always conducted in accordance with state law and minutes have not always been adequately maintained.

4. Accounting Controls and Procedures (page 14)

Accounting duties are not adequately segregated.

VILLAGE OF ARROW POINT, MISSOURI
MANAGEMENT ADVISORY REPORT

1.	Village Assessments
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The monies collected from the various village assessments are used to cover the costs of the village water system, pay the expense of the village dumpster, pay for general village upkeep such as mowing, and pay village operating expenses. We noted the following concerns during our review of these assessments:

- A. The village has not clearly established any of its assessments (water, trash and maintenance) as a tax or a user fee. While the village is providing water and trash services, the village has not established a statement of costs to adequately set rates for providing those services to the village customers. In addition, revenues generated by the maintenance fee far exceed the village's annual expenses (mowing and general upkeep of the village) related to this fee.

The village also assesses a building permit fee for all new construction although the village does not have a building inspector or any other related costs.

The Missouri Supreme Court, in its decision in *Beatty v. Metropolitan St. Louis Sewer District*, 867 S.W.2d 217 (Mo. Banc 1993) applied a five pronged analysis to determine whether a governmental charge was a tax, thus requiring a public vote, or user fee which could be revised without a vote. This court case also indicated that if the analysis did not clearly indicate the charge is a user fee, the issue should be put to a vote.

Because this matter has been a concern of some citizens, the village should request that its attorney review these fees to determine whether they are or can be structured as user fees, or whether they should be put to a public vote. If this matter is not resolved by clear legal authority or an election, the village and its residents may have to re-evaluate how services are being provided.

- B. The village does not separately account for the activities related to its various assessments. All financial activity is accounted for in one fund. General village operating expenses are paid from the excess of the various assessments over related expenses. A General Fund should be used to account for the general activities of the village and other operations should be accounted for separately to ensure that charges do not exceed the costs of providing the services.

The village should attempt to establish what its overall cash balance is as it relates to the various activities of the village. In addition, the village should determine the desired level of services to be provided by the General Fund and how the services are to be funded. Section 80.460, RSMo, authorizes the village (upon voter approval) to levy a property tax for general municipal purposes not to

exceed fifty cents on one hundred dollars of assessed valuation. The village may also seek voter approval for an additional levy (up to thirty cents) for a period not to exceed four years at any one time. The village should also review the possibility of collecting franchise taxes from various utilities operating in the village. Such additional revenues could help the village provide services to its residents.

- C. Late fees charged by the village appear to be excessive. Water and maintenance fees are billed in January and considered delinquent on April 1st. A \$10 late charge (applied separately to the water and maintenance account) is added each month until the account is paid. For example, the \$60 annual water fee billed in January, if not paid by year end would accrue an additional \$90 in late fees (one and one-half times the original assessment for the penalty alone). The village should review the current rate structure for the late fees for reasonableness.

WE RECOMMEND the Board of Trustees:

- A. Request legal counsel review the present assessments and determine whether they are or can be structured as a user fee, or if they should be put to a public vote. Also, the Board should ensure these assessments comply with state law and do not generate excess revenues.
- B. Establish a General Fund to account for the general activities of the village and account for operations other than general activities separately. Once the village has determined the desired level of services to be provided by the General Fund, the Board should consider levying village property taxes as allowed by Section 80.460, RSMo, and investigate obtaining utility franchise taxes in order to obtain sufficient funding.
- C. Review the current rate structure of the late fees for reasonableness.

AUDITEES'S RESPONSE

- A. *We will clearly establish the appropriate costs of providing the water and trash services and set the user rates to cover those costs. We will review the maintenance assessment and alternative funding sources with an attorney and take appropriate action upon their advice and due board consideration. The board has recently set the building permit at a flat \$10 fee.*
- B. *The village has maintained a balance by activity on a current basis. Each year we begin with a zero balance for each activity. We will determine the appropriate balance for each activity by January 2002. We will also review the possibility of a property tax after consulting with an attorney.*
- C. *We will review the late fee and make appropriate changes by January 2002.*

2.**Payment to Former Chairman**

In 1995, the Village of Arrow Point brought suit against former board chairman Bill Crouch for conflicts of interest noted in the State Auditor's report dated September 28, 1994. Mr. Crouch filed a counter suit against the village, in which he requested \$4,245 for his services in managing the installation of the new village water system in 1989 and 1990, along with interest and legal costs. The prior State Auditor's report had recommended the village not pay the former board chairman for managing the installation of the water system. In 1998, a different board than the one which brought the suit against Mr. Crouch, dismissed the suit and made a \$10,000 payment (the original amount of services plus interest and attorney fees) to Mr. Crouch. The village spent \$3,104 in attorney fees related to this case. Based on our review of village minutes and our conversations with the attorneys who represented the village in this case, the village's decision to dismiss the case and make the subsequent payment was not made on the basis of any legal advice they had received. The new board did not obtain any written legal opinion to support their actions nor did they document their reasons for dismissing the suit. The \$10,000 payment to the former board chairman represents a significant village expenditure considering total receipts for the village in that year were approximately \$11,400.

The village's residents have placed a fiduciary trust in their public officials to expend public funds in a necessary and prudent manner. The payment to the former board chairman does not appear to represent a necessary and prudent use of public funds.

WE RECOMMEND the Board of Trustees ensure that all future expenditures represent a necessary and prudent use of public funds.

AUDITEE'S RESPONSE

We agree.

3.**Budgets, Meetings and Minutes**

A. Our review of village budgeting procedures noted the following concerns:

1. Budgets were not prepared for the village until 2001. The 2001 budget prepared by the Village Treasurer was not formally approved by the Board of Trustees. Section 67.080, RSMo, provides that no disbursement of public monies shall be made unless it is authorized in the budget.
2. The village's budget does not include actual receipts and disbursements for the previous two years. In addition, the budget does not include actual and estimated cash and resources available at the beginning and end of the year or a budget message.

Section 67.010, RSMo, sets specific guidelines for the format, of the annual operating budget. A complete budget for each fund should be prepared, and include the beginning available resources and reasonable estimates of the ending available resources. The budget should also include a budget message and comparisons of actual receipts and disbursements for the two preceding fiscal years.

- B. The village conducted several closed meetings during the last two years; however, the minutes did not always document the related vote or the reasons for closing the meeting. Section 610.022, RSMo, requires that before any meeting may be closed, the question of holding the closed meeting and the reason for the closed meeting shall be voted on at an open session.

Also, some topics discussed in closed meetings did not meet the criteria outlined in Section 610.021, RSMo. Some examples of closed meetings that appear questionable were for electing board officers, amending village ordinances, discussing the duties of board members and discussing procedures for responding to requests for public documents. The board should restrict the discussions in closed session to the specific topics allowed by state law.

- C. Board minutes (for both open and closed meetings) were often illegible, unclear and did not always record the results of votes taken on motions made and seconded.

The minutes are the official record of the actions of the board. Care should be taken to ensure the minutes are complete, legible and provide reasons and specific intentions behind board decisions. Inadequate or unclear minutes can lead to subsequent confusion as to board intentions and possible incorrect interpretation of board actions by the general public, future board members, or other outside entities.

WE RECOMMEND the Board of Trustees:

- A. Prepare complete annual budget documents that include all relevant information required by state law. Ensure budgets are formally approved by the Board of Trustees and are used as a tool to monitor the villages finances.
- B. Hold a vote to go into closed session, state the reasons for going into closed session, publicly disclose the final disposition of applicable matters discussed in closed session, and ensure only allowable, specific subjects are discussed in closed session as required by state law.
- C. Ensure all significant discussions and actions taken are adequately documented in a legible manner in the board minutes.

AUDITEE'S RESPONSE

A. We agree and will implement with our new budget in January 2002.

B&C. We agree and will implement.

4. Accounting Controls and Procedures
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The Board of Trustees has not appointed separate individuals to serve as Village Collector and Village Treasurer. Presently, the Village Treasurer serves as the Village Collector. She collects receipts, maintains the village's financial records, makes bank deposits, co-signs checks, reconciles the bank account, and handles billings.

Attorney General's Opinion No. 24, 1955 to Dodds, concluded that in a fourth-class city the holding of the positions of City Clerk, City Treasurer, and City Collector, or any two of these three offices, by the same person at the same time would be incompatible. The statutes pertaining to villages are similar to those cited in this opinion, therefore, the opinion's conclusion appears applicable to villages also.

Also, to safeguard against possible loss or misuse of funds, internal controls should provide reasonable assurance that all transactions are accounted for properly and assets are adequately safeguarded. Internal controls could be improved by segregating duties to the extent possible. If a proper segregation of duties cannot be achieved, at a minimum, there should be a documented independent review of the reconciliations between receipts and deposits and checks issued to disbursement records, and of bank reconciliations.

WE RECOMMEND the Board of Trustees consider appointing separate individuals to the positions of Village Treasurer and Village Collector. If this is not possible, at a minimum, procedures for an adequate independent review of the record keeping functions should be established.

AUDITEE'S RESPONSE

We will designate one of the remaining trustees to review the work of the Treasurer on a periodic basis.

This report is intended for the information of the management of the village of Arrow Point and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.

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